

FILED

MAY 11 2020

RACHELLE L. HARZ  
J.S.C.

IN RE: PELVIC MESH/GYNECARE

LITIGATION

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: BERGEN COUNTY

CASE NO. 291

MASTER DOCKET NO.: BER-1-11575-14

CIVIL ACTION

**TVT 2020 DISCOVERY POOL PRE-TRIAL SCHEDULING ORDER  
(THIRD)**

THIS MATTER having been brought before the Court jointly by Defendants Ethicon, Inc. and Johnson & Johnson ("Defendants"), through their counsel Riker Danzig Scherer Hyland & Perretti, LLP, and Plaintiffs, through Plaintiffs' liaison counsel, and for good cause shown;

IT IS on this 11<sup>th</sup> day of May, 2020, ORDERED that the following are the updated/revised pre-trial deadlines for the next trial involving TVT:

I. Trial Date – Trial is rescheduled for **January 11, 2021**.

II. Pool Cases –

a. There remain 18 Cases in the pool as of this date. Retaining their original selection order number, these are:

3	Aboughazale, Jean	Kline & Specter	BER-L-004642-18
4	Brown, Rhonda & Mark	Oshman & Mirisola	BER-L-011572-14
6	Phillips, Helen D. & Philip J.	Weitz & Luxenberg	BER-L-011522-14
7	Jones, Pamela	Kline & Specter	BER-L-004650-18

8	Bachmann-Hoff, Irene O. & Frederick D. Hoff	Kline & Specter	BER-L-000192-16
11	Steadman, Teresa & Jimmy	Oshman & Mirisola	BER-L-011516-14
12	Nemcek, Madeline & Richard	Oshman & Mirisola	BER-L-012359-14
14	Beasley, Cathy & Timothy Blake	Kline & Specter	BER-L-004644-18
17	Mohr, June	Girardi Keese; Seeger Weiss	BER-L-012791-14
18	Cragan, Janet S. & Lester H., III	Kline & Specter	BER-L-005206-18
19	Spears, Phyllis Carol & Joseph	Kline & Specter	BER-L-004542-16
20	Sturgeon, Rochelle	Girardi Keese; Seeger Weiss	BER-L-012973-14
22	Reynolds, Marilyn & Walter, Jr.	Oshman & Mirisola	BER-L-014620-14
24	Viers, Cindy	Kline & Specter	BER-L-016313-14
25	Dierdorff, Tracy Yvette & Jeffrey L.	Hecht Kleeger; Oshman & Mirisola	BER-L-012441-14
26	Bozyone, Linda & Michael	Weitz & Luxenberg	BER-L-011544-14
28	Ailstock, Tameria	Kline & Specter	BER-L-005676-18
29	Barker, Vivian & Kevin	Kline & Specter	BER-L-005204-18

- III. Updated PFS and Authorizations – Plaintiffs have an ongoing obligation to update PFS and provide updated authorizations for any new treating physicians identified since the service of the last PFS.
- IV. Plaintiff Depositions - By **May 14, 2020**, plaintiffs shall offer dates on which plaintiffs will be deposed before **June 30, 2020**. Plaintiffs ordinarily are expected to come to New Jersey for their depositions to be conducted in person; however to the extent that such travel or other social distancing requirements relating to the COVID-19 pandemic render in-

person depositions infeasible, the parties shall meet and confer about the best means to conduct the depositions so as to minimize prejudice to any party and ensure that the depositions serve the same purpose permitted under the Court rules as if they were conducted in person. The Court recognizes the preference for in-person depositions and will consider extending this deadline upon request of either party in relation to the COVID-19 pandemic if the depositions cannot be taken by the deadline to the satisfaction of either party.

V. Fact Discovery — Fact discovery will be completed by **August 14, 2020**.

VI. Expert Discovery

1. In order to facilitate compliance with the deadlines in this Order, by **August 1, 2020**, plaintiffs are to advise Defendants if the plaintiff has or intends to submit to an IME by plaintiff's case specific expert, and provide possible dates between September 1, 2020 and September 25, 2020 when the plaintiff can travel for an IME to be conducted by the defense expert. Defendants will then send plaintiffs' counsel an email confirming the name of the defense expert, his or her qualifications, the location, date and time of the IME. This information will then be formalized in a Notice for IME that complies with the New Jersey Court Rules.
2. Plaintiffs' expert reports shall be served by **September 1, 2020**. In any case where the plaintiff fails to serve all expert reports by the deadline without having obtained prior leave of the Court, the case may be dismissed with prejudice.

3. Defendants' expert reports shall be served by **October 1, 2020**.
4. The parties shall make best efforts to complete all necessary plaintiff expert depositions by **October 7, 2020**, and all necessary defense expert depositions by **October 22, 2020**.

VII. Pre-trial motions

1. Pre-trial motions (dispositive, Kemp/Accutane, *in limine*) shall be served and filed directly with Judge Harz's chambers by **November 12, 2020**.
2. Oppositions to pre-trial motions shall be filed and served by **December 4, 2020**.
3. Only where necessary, on leave of Court, limited replies shall be filed and served by **December 11, 2020**.
4. Oral argument on pretrial motions and any remaining outstanding disputed deposition designations shall commence on **December 14, 2020**, continuing day to day as necessary.
5. The Court shall issue rulings on pretrial motions and any outstanding deposition designation disputes that impact opening statements, or other such issues that must be resolved prior to opening statements by no later than **December 23, 2020**.

VIII. Deposition designations

1. The parties are to meet and confer by **August 14, 2020**, about reaching an agreement to limit the number of company witnesses that will be presented and/or the total duration of video deposition testimony to be played at trial.

2. The parties shall exchange affirmative deposition designations for case-specific and non-case specific witnesses on or before **September 15, 2020**. The designations shall be identified by page and line number and the parties have agreed to use the same Excel spreadsheet format for ease of reference and exchange. The designations shall specifically identify exhibits to be offered through the deposition testimony.
3. Any objections to the designations or any of the accompanying exhibits sought to be entered through the deposition testimony, and any counter-designations and accompanying exhibits sought to be entered through the counter-designation testimony, shall be exchanged on or before **October 15, 2020**.
4. Plaintiffs shall advise Defendants of any witness for whom Defendants have identified deposition designations to which Plaintiffs will object on the grounds that the witness needs to be brought live to trial rather than played by video on or before **October 15, 2020**.
5. Any objections to the counter-designations and exhibits, and any counter-counter-designations to an opposing party's counter-designations, shall be exchanged on or before **November 6, 2020**.
6. The parties shall meet and confer no later than **November 20, 2020**, to resolve objections to the designated testimony and exhibits and to resolve any proposed redactions to exhibits.

7. The Court shall commence hearings to resolve all outstanding objections relating to the deposition designations and exhibits during the week of **December 14, 2020**, continuing as necessary.
8. The Court shall issue rulings regarding disputed deposition designations by no later than **December 23, 2020**.

IX. Trial witnesses and exhibits

1. The parties shall exchange witness lists on or before **October 15, 2020**.
2. On or before **October 15, 2020**, Plaintiffs shall advise Defendants of Defendants' corporate witnesses whom they request to call as live witnesses at trial.
3. The parties shall disclose the identities of live witnesses who will testify at trial at least two business days prior to when the witness will be called. If the witness will be called on a Monday, then the witness must be disclosed by the end of court day on the preceding Friday.
4. The parties are to meet and confer by **August 14, 2020**, about reaching an agreement to limit the number of trial exhibits that will be listed on each party's exhibit list.
5. The parties shall exchange their lists of all exhibits that may be offered during each party's case in chief no later than **November 20, 2020**. Demonstratives and exhibits to be utilized solely for impeachment purposes need not be included. The exhibit list shall be in the form of an Excel spreadsheet. The parties may supplement their exhibit lists from time to time prior to and during trial, provided that the supplementations

are reasonable in terms of scope and number of documents. The parties shall meet and confer regarding the deadline and manner by which they will exchange copies of all exhibits (e.g., on a hard drive, as separate .pdf or .tiff images, etc.).

6. If a party elects to submit a paper copy of proposed exhibits to the Court for any purpose, and if the Court so permits, a duplicate shall also be provided to the adverse party.

X. Jury instructions

1. The parties shall exchange initial proposed jury instructions by **December 23, 2020**, and thereafter shall meet and confer regarding jury instructions.

XI. Jury selection

1. A proposed agreed upon jury questionnaire must be submitted to the Court on or before **December 17, 2020**. If the parties are unable to agree upon a form of juror questionnaire, the parties shall submit competing forms and identify for the Court those questions upon which they cannot agree.
2. By **December 17, 2020**, the parties shall submit a concise descriptive statement of the nature of the case not to exceed one page in length for the Judge's use during jury selection.
3. Jury selection will begin on **January 11, 2021** with jurors to complete questionnaires (both short form hardship and long form) on **January 4, 5, and 6, 2021**.

XII. Commencement of Trial — Opening statements will commence as soon after **January 11, 2021** that jury selection is complete.

IT IS FURTHER ORDERED that a copy of this Order shall be served upon all counsel within seven (7) days of the date of this Order.



Hon. Rachelle L. Harz, J.S.C.

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